

**REMARKS/ARGUMENTS**

This Amendment is being filed in response to the Final Office Action dated February 13, 2009. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

Claims 1-15 are pending in the Application. Claims 1, 10, 12, and 14 are independent. In the Final Office Action, claims 1-15 are rejected under 35 U.S.C. 103(a) over U.S. Patent 6,177,931 to Alexander ("Alexander") in view of U.S. Patent 7,146,627 to Ismail ("Ismail"). This rejection is respectfully traversed. It is respectfully submitted that claims 1-15 are allowable over Alexander in view of Ismail for at least the following reasons.

Alexander describes making improvements over previous Electronic Programming Guides, including providing opportunities for the commercial advertiser to reach the viewer and utilization of viewer profile information to provide customized presentation of advertising to the viewer (see Abstract). In particular, as referenced in the Final Office Action at page 4, line 1 of the Final Office Action, Alexander at col. 28, lines 11-21 describes requesting that "the viewer provide certain profile information"

(see, col. 28, lines 13-14) and if the viewer declines, "attempt to 'learn' the information" (see, col. 28, line 21).

In the last paragraph at page 4 of the Final Office Action it is stated that Alexander does not teach "providing a score" but Ismail, at col. 12, lines 61-66, does.

Ismail, at col. 12, lines 63-66, states the following:

individual viewer picks one show to watch out of the collection of available program by evaluating a stochastic liking function for each program and choosing the program with the highest score.

In other words, in Ismail it is the viewer who chooses the program. Further, far from indicating a degree of preference for each program, one program is being selected "out of the collection of available program".

In contrast, independent claim 1 recites "providing, for each of a plurality of programs, a score indicating a degree of preference of at least one user in relation thereto ...". Support for this is found in the paragraph at page 3, line 28 to page 4, line 8 of the specification. In particular, the paragraph states that the score is provided by the program recommender 160 not by the viewer as in Alexander and Ismail.

Further, independent claim 1 recites "providing, for each of a plurality of commercials, respective correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs ..." In the Response to Arguments section, at page 2 of the present Final Office Action, col. 32, lines 24-34 of Alexander, is cited which states "tailor the presentation and scheduling of advertisements to the viewer." (See, col. 32, lines 25-26). This too does not rise to the level of teaching, describing, or suggesting providing for each commercial "correlation factors indicating respective degrees of effectiveness in relation to each of the plurality of programs" as recited in claim 1.

Finally, claim 1 recites "providing, for each of the plurality of commercials, a metric indicating a degree of effectiveness in relation to the at least one user based on the scores and the respective correlation factors." A "metric indicating a degree of effectiveness" is simply not taught, described, or suggested anywhere in Alexander including cols. 32, 33, and 34 cited in the Final Office Action.

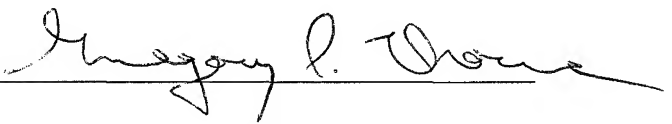
Independent claims 10, 12, and 14 include recitations similar to those described above with reference to claim 1.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 10, 12, and 14 are allowable over Alexander in view of Ismail and an indication to that effect is respectfully requested. Claims 2-9, 11, 13, and 15 depend respectively from one of claims 1, 10, 12, and 14 and are accordingly allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position, or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398  
Attorney for Applicant(s)  
April 13, 2009

**THORNE & HALAJIAN, LLP**

Applied Technology Center  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101